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CLASSIFICATION STANDARDS REGULATION

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CONSULTATION MEETINGS

10

WITH THE OMAHA TRIBE OF NEBRASKA

11

taken on July 17, 2006

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Reported by Sherry G. Auge, RPR  
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1       The Consultation Meeting with the OMAHA TRIBE  
2       OF NEBRASKA, was taken before Sherry G. Auge, a  
3       notary public in and for the County of Washington,  
4       State of Minnesota, on July 17, 2006, taken at the  
5       Sheraton Hotel, Lounge No. 3, 7800 Normandale  
6       Boulevard, Bloomington, Minnesota, commencing at  
7       approximately 2:05 p.m.

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9           A P P E A R A N C E S:

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11       ON BEHALF OF THE NATIONAL INDIAN GAMING  
12       COMMISSION:

13       PHILIP N. HOGAN, Chairman of the National  
14       Indian Gaming Commission, 1441 L Street NW, Suite  
15       9100, Washington, D.C. 20005;

16       CLOYCE V. CHONEY, Chairman of the National  
17       Indian Gaming Commission, 1441 L Street NW, Suite  
18       9100, Washington, D.C. 20005;

19       JOSEPH M. VALANDRA, Chief of Staff of the  
20       National Indian Gaming Commission, 1441 L Street  
21       NW, Suite 9100, Washington, D.C. 20005;

22       NATALIE HEMLOCK, Special Assistant to the  
23       National Indian Gaming Commission, 1441 L Street  
24       NW, Suite 9100, Washington, D.C. 20005;  
25       PENNY COLEMAN, Acting General Counsel for the  
  
      DIANE M. WRIGHT & ASSOCIATES

1 National Indian Gaming Commission, 1441 L Street  
2 NW, Suite 9100, Washington, D.C. 20005;

3 MICHAEL GROSS, Senior Attorney for the National  
4 Indian Gaming Commission, 1441 L Street NW, Suite  
5 9100, Washington, D.C. 20005;

6 JOHN R. HAY, Staff Attorney for the National  
7 Indian Gaming Commission, 1441 L Street NW, Suite  
8 9100, Washington, D.C. 20005;

9 JOHN PETERSON, Regional Director for the  
10 National Indian Gaming Commission, St. Paul Office,  
11 190 East 5th Street, Suite 170, St. Paul,  
12 Minnesota;

13 ALLEN PHILLIPS, Field Investigator, 801 I  
14 Street, Sacramento, California 95814.

15

16 ON BEHALF OF THE OMAHA TRIBE OF NEBRASKA:

17 ELEANOR BAXTER, Chairperson;

18 ORVILLE CAYOU, Vice Chairman;

19 CRYSTAL APPLETON, Council Treasurer;

20 ANSLEY GRIFFEN, General Manager for the Lucky  
21 77 Casino;

22 ALICIA PARKER, Gaming Commissioner;

23

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1 WHEREUPON, the following proceedings were duly  
2 had:

3 COMMISSIONER HOGAN: I'm Phil Hogan,  
4 Chairman of the National Indian Gaming Commission.  
5 With me is Commissioner Chuck Choney, and we have  
6 staff with us. John Peterson is our Regional  
7 Director from our St. Paul office here in this  
8 area. Natalie Hemlock is the Assistant to the  
9 Commission seated down at the end, and then over on  
10 this end, Allen Phillips is here from our  
11 Sacramento office. He's one of our investors that  
12 knows something about gaming equipment. Joe  
13 Valandra is our Chief of Staff. John Hay and  
14 Michael Gross are attorneys in our Office of  
15 General Counsel. Seated next to Michael is Penny  
16 Coleman who's our Acting General Counsel, so we are  
17 here.

18 The reason we have so many of us is, this was  
19 quite an exercise to write these proposed  
20 regulations, and each of us have played some role  
21 in that, and we all wanted to be in on the comments

22      and the consultation, so that we get it all  
23      together. So having said that, when we speak, we  
24      probably should preface, with what we say, by  
25      identifying ourselves, so that the court reporter

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1 here will know who's making the comments, but why  
2 don't you introduce yourselves and tell us where  
3 you are and what your position is with the tribe.

4 MR. ORVILLE CAYOU: My name is Orville  
5 Cayou. I'm the Vice Chairman of the Omaha Tribe in  
6 my second term, a year-and-a-half into my second  
7 term. I'm also the Foreman Chairman so --

8 MS. CRYSTAL APPLETON: Crystal Appleton,  
9 Treasurer for the Omaha Tribe.

10 MS. ELEANOR BAXTER: Eleanor Baxter, and  
11 I'm the Chairlady of the Omaha Tribe, and Orville  
12 forgot to mention, he's also the Great Plains Vice  
13 Chair.

14 MR. ANSLEY GRIFFIN: I'm Ansley Griffin.  
15 I'm the general manager for the Lucky 77 Casino,  
16 the Class II operation up there.

17 MS. ALICIA PARKER: Good afternoon. My  
18 name is Alicia Parker. I'm the Chairperson for the  
19 Omaha Tribe Gaming Commission.

20 COMMISSIONER HOGAN: Okay. Well, I had  
21 the privilege of visiting your facility here a

22 couple of weeks ago, and kind of got a whirlwind  
23 tour there, and for awhile I thought your Class II  
24 operation was over in the service station, but it  
25 wasn't. It was elsewhere. But they straightened

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1 me out before I got out there, so we are eager to  
2 hear your thoughts about our proposed regulations,  
3 and we'll try to respond to questions you might  
4 have in that fashion.

5 MR. ORVILLE CAYOU: Go ahead, Ansley.

6 MR. ANSLEY GRIFFIN: So the overall  
7 premises of these regulations is to clearly define  
8 our Class II bingo machines?

9 COMMISSIONER HOGAN: That's a pretty good  
10 summary of what it is, yeah.

11 MR. ANSLEY GRIFFIN: All right. Okay. So  
12 there are a couple of -- a couple of -- couple of  
13 manufacturers in gaming devices out there right  
14 now. One is, for instance, we have Rocket. Okay.  
15 So Rocket has a certification letter. Okay.  
16 Rocket gaming has a certification letter, so does  
17 that mean that you will keep the machines to be  
18 similar to what Rocket already has? Or are you  
19 gonna change the machines and have Rocket modify  
20 its machine to the way that your proposal -- the  
21 proposal is going to be?

22           COMMISSIONER HOGAN: Probably, the latter.  
23       Probably, Rocket would need to get certification of  
24       either the current game that they have, or if they  
25       modified it however they changed it. The advisory

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1 opinion letter that Rocket gaming has is one of  
2 several that we have issued. And it was that  
3 process that helped point us in the direction of we  
4 got to have some regulations, 'cause those  
5 happened, kind of, on an as needed basis.

6 There was controversy over is that a Class II  
7 or is that a Class III machine. And rather than  
8 have NIGC go out and taken enforcement action and  
9 issue a closure order, or whatever, the machine  
10 manufacturers, usually with a tribe, came to us and  
11 said, well, please, won't you give us a letter  
12 saying you think this is a Class II machine.

13 Well, we didn't have any regulations, but we  
14 knew what the court cases said. We knew what IGRA  
15 said. And so our Office of General Counsel looked  
16 at those machines and worked with the manufacturers  
17 and vendors, and said, we think you've got it all  
18 right, except here, you've got to change this part  
19 of it, and usually, they did that.

20 And so then, we said, in our advisory opinion  
21 letter, if you build the machine just the way

22     you've described it here, we'll find -- we'll treat  
23     that as a Class II device, but we also said, this  
24     is not a full, formal Commission action. This is  
25     just or advisory opinion. And that was a slow,

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1 painful, expensive process, and often, by the time  
2 we finally got that advisory letter done, some  
3 other technology had come along and that made that  
4 one obsolete.

5 So we decided there's got to be a better way to  
6 deal with this, and if we just come up with the  
7 rules, and then, they can build the machine to  
8 those specifications, and they can then take them  
9 to a gaming laboratory, like GLI, BMM, Nick Farley.

10 And if they test that machine, and they say, yes,  
11 this complies with the regulations, then, you'd be  
12 good to go. NIGC wouldn't be the bottleneck. You  
13 wouldn't be waiting for us to get our advisory  
14 opinion done, and we wouldn't have to have a  
15 laboratory.

16 They could do it, but we'd have this set of  
17 rules. And if they decided, hey, we want to move  
18 to the next generation, let's improve the game,  
19 they would take that one to the lab and see if that  
20 would fit, and we wouldn't have to go through that  
21 process. And tribes could, you know, add whatever

22 restrictions, if they wanted to, or qualifications,  
23 but we'd have, finally, a bright line saying, if  
24 the machine does this, this, and this, then, it's  
25 Class II. It's not Class III.

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1       So with respect to the Rocket letter, it  
2       wouldn't become obsolete, so to speak, but what we  
3       found is when -- every time we wrote one of these  
4       advisory opinions, there was some new angle that we  
5       didn't think of when we wrote the last one. And  
6       so, there may be things in Rocket's current game,  
7       like the time between pushing the daub button, or  
8       whatever, that they would need to modify to meet  
9       the regulations that we finally finalized.

10       Now, we haven't finalized anything yet.  
11       They're just proposed, and that's why we want to  
12       hear tribal comments to make sure we're gonna try  
13       to get it right.

14       MR. ANSLEY GRIFFIN: Another comment that  
15       I have -- I'm sorry, Chairlady.

16       MS. ELEANOR BAXTER: Well, go ahead.

17       MR. ANSLEY GRIFFIN: Another comment that  
18       I have is that, hopefully, with the -- through  
19       these consultations that you have with tribes --  
20       I'm sure I'm not the only one making this  
21       comment -- is the entertainment value of the device

22       itself. I mean, you can generically break this  
23       thing down to where it may lose its entertainment  
24       value to the customer which is the revenue base for  
25       the tribe. And if you lose that customer's revenue

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1 base, what's the purpose in actually allowing the  
2 tribes to have this entertainment device, which  
3 would -- which, ultimately, develops revenue for  
4 the tribes, which is the main reason why we would  
5 have that device in the first place.

6 So, hopefully, you know, with these  
7 consultations with the tribes, hopefully, I'm not  
8 the only one that is also making this request is  
9 to -- is to -- like you said earlier, give the  
10 tribes a chance to be a part of the changes and all  
11 the way, you know, from the start of the changes to  
12 the end, that we have that ability to consult with  
13 you and to be a part of this change if it goes  
14 through as proposed.

15 COMMISSIONER HOGAN: Yeah. You're sure  
16 right. You're not the only one that's mentioned  
17 this, and, hopefully, our proposed regulations  
18 accommodate that. That is, we say, if it's gonna  
19 be bingo, you can't play by yourself or just with  
20 the machine. You got to be networked together with  
21 other bingo players. That doesn't mean you can't

22      make it look like there's bells and whistles or  
23      slot machine reels or poker hands or whatever you  
24      want, but all that part of it does is entertain the  
25      player. Tells them, in kind of a fun way, whether

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1       they won or lost, and, hopefully, gets them into  
2       playing again.

3       And so, one of the changes from our last draft  
4       to this draft that we published is that we say, you  
5       need to have a little more of a screen. You have  
6       to have half the display case dedicated to the  
7       bingo game. And there are those who've said, well,  
8       that's too much. You can make a smaller card, and  
9       still let the players know they are playing bingo  
10      if that's the format of the game. So we're taking  
11      that into consideration, but right now, it's  
12      proposed to be half the display space.

13       MR. ORVILLE CAYOU: I just got a question.  
14      This is Orville Cayou again. Why are we having --  
15      I mean, you're calling it a consultation here, and,  
16      you know, it's funny that Mr. Griffin here asked  
17      you to include 'em. I mean, we went through this  
18      one time with one of the -- was it Region VII -- or  
19      health care, and, I mean, they call it a  
20      consultation, but what it actually is you just  
21      gather us here to tell us what you're gonna do.

22       Whatever comments we make, you know, then, it's  
23       written down, and I'm wonder what happens to them.

24               COMMISSIONER HOGAN: Well, I hope --

25               MR. ORVILLE CAYOU: I'm getting the same

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1 feeling here now.

2 COMMISSIONER HOGAN: Why is that?

3 MR. ORVILLE CAYOU: It's just that, you  
4 know, we're all gathered here. We all signed our  
5 sign-in and introduced ourselves, but, you know,  
6 and you ask a couple of questions, and, you know,  
7 why is this part of -- I mean, who writes these  
8 regulations? This group of people here? And then,  
9 who directs you?

10 COMMISSIONER HOGAN: Well, I was  
11 appointment by the President, and Chuck was  
12 appointed by the Secretary of the Interior.

13 MR. ORVILLE CAYOU: I mean, I don't  
14 gamble, and I'm sorry I missed your visit up, you  
15 know, to our casino, but, you know, I guess,  
16 basically, I'm here for just for one purpose, and  
17 that's to -- I'm former law enforcement, and while  
18 I was a chairman, the general manager at the time  
19 asked for a report, you know, regarding an  
20 investigation of delaying provost down here. And I  
21 understand that is the complaint, and it's not

22     anybody's fault here that it's not in court or  
23     there's been an indictment, but they can help our  
24     tribe, you know, 'cause there's quite a claim on  
25     the insurance, and we're waiting on documentation

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1 from your office.

2 COMMISSIONER HOGAN: When I was at Omaha,  
3 I spoke with your general manager about the need  
4 for that report and the insurance issues that have  
5 been raised, and Michael, did you see a request or  
6 Penny --

7 MS. COLEMAN: Well, yes. I'm aware of  
8 that. Is this something that we want to talk about  
9 once we go off the record?

10 MR. ORVILLE CAYOU: No. Why would we go  
11 off the record?

12 MS. CRYSTAL APPLETON: Maybe, we should go  
13 off the record, because this is gonna be published,  
14 and it's actually a personnel --

15 MS. COLEMAN: This is gonna be published  
16 on the website.

17 MS. CRYSTAL APPLETON: You don't want that  
18 published on the website.

19 MS. COLEMAN: So, maybe, you'd like to  
20 talk about that later.

21 MR. ORVILLE CAYOU: Sure. I just wanted

22 to bring that up and make sure we don't overlook

23 anything. That's what consultations are.

24 COMMISSIONER CHONEY: You're asking why

25 we're consulting? Why we're coming out here?

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1 MR. ORVILLE CAYOU: Yeah.

2 COMMISSIONER CHONEY: Well, we're forming  
3 these regulations, and we feel there has to be a  
4 reason to clarify between Class II and Class III  
5 gaming. Right now, we're mainly centering this on  
6 bingo. We're coming out talking to your tribe.  
7 We've talking to some tribes this morning. And  
8 we'll be talking to some more tomorrow, and we're  
9 leaving here. And then, we're going back to D.C.,  
10 but then, we're going back out to Tacoma,  
11 Washington, going down to southern California, and  
12 then, we're going to Oklahoma.

13 We're out here to see what the tribes are  
14 thinking. We're taking all these written comments,  
15 or these vocal comments. We're taking the written  
16 comments that you'll be subsequently sending in.  
17 What we're looking for -- we have a letter that the  
18 tribe we talked to this morning gave us. This is a  
19 template. This is a form letter. We're not  
20 interested in this form letter.

21 We're interested in what your thoughts are. We

22      want your original thoughts. What you're  
23      objections are, or if we're going in the right  
24      direction. We want to hear that from you, not from  
25      some trade organizations telling our members what

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1 to say. We want your thoughts, and we will take  
2 your written comments on what you say here and what  
3 you tell us today. We're gonna transcribe this.  
4 Of course, this is going on our website, but we're  
5 gonna get the copies. We're gonna look at them,  
6 and we're gonna sit down, and we're gonna look to  
7 make sure we're going in the right direction or if  
8 we're going -- veering off into right field or  
9 whatever.

10 That's why we're coming out here to talk to the  
11 tribes to find out what you think to see if we're  
12 doing the right thing. If you feel that we're not  
13 doing the right thing, let us know, and if so, tell  
14 us why we're not doing the right thing. And if  
15 we -- if you think we're doing it right, again,  
16 tell us how we're doing it right. That's why were  
17 consulting.

18 MR. VALANDRA: I'd like to make another  
19 point, too, if you don't mind. This particular set  
20 of regulations has been looked at over the course  
21 of several years now, may be, some of the best

22     vetted or reviewed set of regulations by the  
23     Commission, maybe, ever. And the reason for that  
24     is to make sure that the impact on the tribes is  
25     well understood by everyone involved. And if the

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1 history of how we got to this point would be  
2 helpful -- I'm not the one to give it to you. The  
3 Chairman is -- so you know how we got to this  
4 point, that there has been a lot of listening of  
5 the tribes and how this final version has come  
6 about. But not wanting to be defensive, but  
7 actually, just want to get the history on the  
8 record might be a help, too.

9 MS. ALICIA PARKER: So is there gonna be a  
10 time frame or deadline that these are gonna be put  
11 into place then?

12 COMMISSIONER CHONEY: The written  
13 comments, you mean?

14 MS. ALICIA PARKER: Yes.

15 COMMISSIONER CHONEY: August 25.

16 MR. VALANDRA: 23rd.

17 COMMISSIONER HOGAN: After that, we will  
18 sit down around a table and, first of all, decide,  
19 do we have enough information? Then, we'll decide  
20 do we want to go forward with the regulations. And  
21 if we still do, then, we will publish in final form

22 the regulations probably making some changes, and

23 then, there will be an effective date.

24 And once they become effective, each tribe will

25 have a six month period in which to put together a

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1 tribal compliance plan, basically, that we'll just  
2 provide if you're using Class II equipment. How do  
3 you get that equipment tested so that it meets the  
4 certification or complies with those regulations.

5 If we find out during the course of these  
6 discussions that's not enough time, we might change  
7 that, but we hope, this fall, to publish the final  
8 regulations, and then, six months later there would  
9 be the effective date more or less.

10 MS. ELEANOR BAXTER: Well, I guess -- I'm  
11 Eleanor Baxter. And as we go back into history,  
12 that we were impoverished tribes at one time, all  
13 of us. And I read history, in the Omaha history,  
14 we have been in our area for the last 400 years,  
15 and because we would have been moved to the sand  
16 hills of Nebraska, and because of some men who  
17 knew, who were French, and who married Omaha women  
18 and knew the English language, is the reason why we  
19 got to stay. We stayed in our area because of the  
20 lawyers, and so we remained in our area. You could  
21 say that we have never been removed other than the

22 other six tribes who were removed.

23 But as we look at our history, throughout the

24 years, that gaming has been our way to a better

25 life, and when we went to testify on several

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1 different occasions at the state capitol, it was  
2 not pretty, because when you meet opposition from  
3 legislation and from the good lifers who do not  
4 like gambling, but, yet, what do we have in  
5 Nebraska? We have Keno. We have bingo. We have  
6 Pickle cards. We have horse racing. We have dog  
7 racing.

8 Now, when we wanted to go -- and I have to  
9 admire the people that opened up gaming, the Indian  
10 Gaming Regulatory Act, and then NIGRA. I have to  
11 admire those people for opening these doors for us.  
12 Today, it provides us with 250 jobs on our  
13 reservation. And if there's a change in this bill  
14 that is trying to go before Congress, S.2778 (sic)  
15 then, I hope it doesn't make it for one.

16 We have come to the level of just a little bit  
17 better living in today's world, our tribe is. And  
18 you can look throughout the United States just how  
19 gaming is working for the tribes. And that's what  
20 we have to go by, because when you look at some of  
21 the nations, you have to look at the infrastructure

22 of the land base and how many people would the --  
23 with the businesses that are going to come in our  
24 area and say, we're going to build -- have a  
25 company on your reservation, put your people to

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1 work. That has never happened.

2 So as I look at this, I'm very passionate about  
3 the fact that today, because of gaming, that we can  
4 say we have some income coming into our  
5 reservation, and I don't want that -- my comments  
6 are, is that that's just what it is. It offers us  
7 a way out of the poverty level that we've lived and  
8 have become accustomed to for such a long time,  
9 being Indian, and living in that -- living without  
10 a dollar, living without a quarter.

11 Now, today, we can say that we have, at least,  
12 a car to drive, and we have -- I'll just put it to  
13 you bluntly, that home ownership is not real. We  
14 have HUD housing. We haven't really gotten that  
15 far. So I hope that we can successfully complete  
16 contracts with IGRA and NIGC, and I hope that -- I  
17 had made some comments on here that under IGRA, it  
18 is enabling our tribe to improve our economic  
19 conditions.

20 And that comes straight from my heart, because  
21 I'm older than my people that are sitting here, and

22 I've come through the hard times and through --  
23 through knowledge and through the education  
24 process, then, the mind begins to think, how are we  
25 going to empower ourselves to become under a

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1 better, stable infrastructure for our tribe. So  
2 those are my comments to you today. Thank you.

3 COMMISSIONER HOGAN: We appreciate that,  
4 and we know that in many places Indian gaming has  
5 been, literally been, an economic miracle. Before  
6 that economic development, basically, there was  
7 nothing. And the Omaha's to their credit jumped  
8 right into the act early, and, fortunately, for  
9 your geography you were in two states, and you  
10 weren't stuck with the one that wouldn't do any  
11 compacting.

12 And I'm sure that's the reason why you're  
13 interested in the Class II, because you are in a  
14 place like Nebraska where you don't have that Class  
15 III compact opportunity. We think it's important,  
16 both for states and tribes and federal regulators,  
17 to know what the difference is. What you can do  
18 without a compact. What you can't do.

19 And right now, because the Act is not a model  
20 of clarity, it says you can use technologic aids to  
21 do Class II gaming, bingo, things like that, but

22     you can't have electronic facsimiles of games of  
23     chance or slot machines of any kind. Well, how do  
24     you know where the line is? That's what we're  
25     trying to do based on the court decisions, based on

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1 the development of the industry. Do it fair. Do  
2 it with some clarity based on what Congress  
3 intended and, you know, what the law has developed.

4 But if we don't get that clarity there, I'm  
5 concerned that the day might come when somebody  
6 will say, well, there's no difference between Class  
7 II and Class III. You have to go to the State for  
8 all of it. And then, we'll be out of business in  
9 some respect. So I hope we can get to the right  
10 place, but building on the kinds of success that  
11 you folks have had, and bearing in mind, we don't  
12 want to kill the goose that laid the golden egg.  
13 This is working. Let's not foul it up. Let's try  
14 to improve on it.

15 MS. ELEANOR BAXTER: Very good. Crystal?

16 MS. CRYSTAL APPLETON: Did you have any  
17 more questions on that?

18 MR. ANSLEY GRIFFIN: Yeah. So getting  
19 back to the mechanics of things, the basic  
20 principle behind this, also, is to remain  
21 ticket-in/ticket-out, and all the -- it'll be,

22 basically, a ticket operation as it is today?

23 COMMISSIONER HOGAN: No. I don't think we

24 restricted it to a ticket-in/ticket-out operation.

25 If it's a pull-tab based game, you'll have to have

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1 the paper pull-tab. You can show slot machine  
2 reels, and so forth, but it'll still have to be a  
3 paper pull-tab. But you could have a bingo game  
4 that was a cash-in deal, cash-out deal as long as  
5 the play of the game, in determination of the  
6 winners and the losers, was based on the calling of  
7 numbers, the covering of numbers on the cards, and  
8 so forth, and can be done electronically, but the  
9 players would have to have some participation in  
10 that. It couldn't be just push the button and the  
11 machine does all the rest of the work.

12 MR. ANSLEY GRIFFIN: In that case, I  
13 personally -- I can't speak for my tribe, 'cause  
14 I'm not -- I'm a tribal member, but I can't speak  
15 in the Chairlady's seat, because that's where she's  
16 at right now, but I can speak on a personal note on  
17 behalf of what I feel should happen, being a tribal  
18 member and being a general manager for this  
19 operation, if you make those changes, Chairman  
20 Hogan, you're gonna affect -- you're gonna affect  
21 the way that the entertainment value sits today.

22     It's gonna affect a lot of logistics that lie with  
23     this operation.

24         And, basically, what you're gonna do is, you're  
25     gonna affect the revenue, because for one, in the

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1 interim, you're gonna have to have all of these  
2 companies catch up to what the new regulation will  
3 be. And second, I can't see that being an  
4 entertaining -- entertaining game. I mean, why  
5 can't we just leave it the way it is?

6 MS. CRYSTAL APPLETON: How exactly is  
7 there gonna be more interaction between the player  
8 and the bingo, within the electronic bingo?

9 COMMISSIONER HOGAN: When the game is  
10 bingo, and that's where most of these machines are  
11 right now, we feel that one of the things that  
12 distinguishes bingo from the other gaming  
13 activities is the player participation, the part  
14 about being a race to see who can be the first to  
15 cover the number on the card, and so you have to  
16 maintain that player participation.

17 And the way we think that can be accommodated  
18 is to say, first of all, you can't just call all  
19 the numbers, and the game is over, because then, it  
20 would be just one push of the button and the  
21 machine would do the rest. So you would call some

22 numbers, but not enough numbers to get anybody a  
23 bingo. And, of course, the computer knows what the  
24 numbers are on the cards, so it'll know when to  
25 stop. It'll know if we call one more number,

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1       somebody will have a bingo, so we'll just call that  
2       many numbers.

3       Then, you give the player the opportunity to  
4       cover their numbers. They don't have to find each  
5       individual number on their card. They can push the  
6       autodaub button, and say, if I've got the numbers,  
7       cover them. And then, you can release the numbers  
8       again, and in that time, you can call on enough  
9       numbers to put somebody out, to give somebody a  
10      bingo, but the players have to -- just like in  
11      paper bingo, they can sleep the bingo if they don't  
12      push the button again. So they've got to daub the  
13      button again, and then, they can claim their win.

14      Now, what we have seen in the development of  
15      these electronic player stations is that the game  
16      ending prize usually isn't a big prize. That's  
17      kind of a nominal prize. So what the players are  
18      hoping to get is that consolation prize, or that  
19      interim prize, that might pay them the big prize.  
20      That won't be awarded every game, of course, but  
21      that'll keep them playing, because they want to

22 play again, and, maybe, get that one.  
23 So as opposed to a slot machine where you push  
24 the button and then the random number generator  
25 does the rest, here, you have to play a little bit.

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1     You have to daub, call the numbers, daub, and then,  
2     that claims it. Not a lot of difference, but  
3     enough difference so we can go to Congress with a  
4     straight face and say, you said there was supposed  
5     to be a difference. Now, this is what we think the  
6     difference is.

7         And then States, when they either negotiate or  
8     refuse to negotiate, they will know with some  
9     clarity if we don't negotiate with the tribes,  
10    that's what they're gonna be doing. They can be  
11    doing that activity. Right now it's kind of up in  
12    air. Nobody really knows for sure where is that  
13    line between Class II and Class III.

14         MS. COLEMAN: Did you think that -- that  
15    the regulations said that you couldn't have  
16    ticket-in and ticket-out?

17         MR. ANSLEY GRIFFIN: No. I'm trying to  
18    get a feel of what you're thinking of. I'm trying  
19    to see where you're going with this.

20         MS. COLEMAN: Okay. I think with respect  
21    to the ticket-in and ticket-out, what we were

22       saying is that you can have that for bingo, but you  
23       can also have, put the money in, so that it  
24       wouldn't mean that you would have to change like  
25       Rocket Bingo's ticket-in and ticket-out, right?

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1 MR. ANSLEY GRIFFIN: Right.

2 MS. COLEMAN: You can still have that, but  
3 if you want to have it where you put the cash in,  
4 and you have the cash come out, you can do that,  
5 too.

6 COMMISSIONER HOGAN: And as you know, the  
7 industry is going in that direction, that is,  
8 trying to get away from all the quarters.

9 MR. ANSLEY GRIFFIN: It's just a cleaner  
10 operation. That's --

11 MS. ALICIA PARKER: I think the ticket-in  
12 and ticket-out is more accountable than having the  
13 cash coming out, because it's verified by a third  
14 party.

15 MS. ELEANOR BAXTER: So Alicia, what are  
16 your thoughts on exactly what is being discussed?

17 MS. ALICIA PARKER: I guess, it's gonna  
18 be, probably, a tough job to have your deadlines,  
19 because there's a lot of considerations with the  
20 tribe that you need to -- is everyone's input gonna  
21 be considered before these decisions are put into

22 place?

23 COMMISSIONER HOGAN: We certainly are

24 dedicated to that proposition, and we hope all

25 input will be received and will be fairly

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1 considered by this.

2 MR. ANSLEY GRIFFIN: This isn't the first  
3 time around for these types of proposals, correct?

4 COMMISSIONER HOGAN: We formed a Tribal  
5 Advisory Committee one-and-a-half or two years  
6 ago -- I've forgotten how long ago -- and met many  
7 times with the Advisory Committee, and then, we  
8 published our first set of draft regulations. And  
9 then, we did five revisions or a fifth revision,  
10 and we were done with those a year ago this spring.  
11 And then, the Justice Department said, well, maybe  
12 that would violate the Johnson Act. So we spent  
13 all last summer talking with them, and, finally,  
14 came up with this current proposal.

15 MS. ELEANOR BAXTER: So all the comments  
16 that -- that you are gathering in your mixing bowl  
17 is going to be put in a Federal Register?

18 COMMISSIONER HOGAN: I don't know that we  
19 will -- the way it typically works is that we will  
20 propose a set of regulations as we have done here,  
21 and then, we will receive both written and oral

22        comments. Then, we will go through and kind of put  
23        those into categories, like, I mentioned this isn't  
24        the first time we suggested that entertainment  
25        value might be -- We will summarize those, and then

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1 we will address those either saying, we heard these  
2 comments, therefore, we made these changes, or we  
3 heard these comments, but these were the reasons we  
4 aren't changing them any more than we already are,  
5 and try to respond that way.

6 MS. CRYSTAL APPLETON: So will you plan on  
7 having another consultation with the tribes after  
8 this, or is this the last one?

9 COMMISSIONER HOGAN: This is one of a  
10 series. I don't think we will be back in  
11 Minneapolis or this area for this purpose, though.  
12 This would be it. But as I pointed out, there will  
13 be, through the 23rd of August, an opportunity to  
14 submit written comments.

15 MS. CRYSTAL APPLETON: So, okay. We're  
16 gonna be able to see this online, correct, for each  
17 tribe and their responses and their questions and  
18 comments? Will we be able to respond to that,  
19 after that, again, after we've read the other  
20 tribes --

21 COMMISSIONER HOGAN: Yeah. I don't know

22 exactly when these transcripts will hit the  
23 website, but, probably, won't be very long from  
24 now. And if after reading those, you want to send  
25 us a comment, we certainly will consider that.

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1           MR. ANSLEY GRIFFIN: Okay. Another  
2       question is, we as a tribe, if we -- if we intend  
3       to do any type of expansion or modifications to the  
4       current operation we have, would we set this -- set  
5       those plans back? Or, I guess, a better question  
6       from us to you would be, how old are these -- how  
7       long is this process gonna take and as far as a  
8       final ruling goes?

9           COMMISSIONER HOGAN: I hope this fall,  
10      this October, we will publish in the Federal  
11      Register the final rule.

12          MR. ANSLEY GRIFFIN: Okay. So I'm just  
13      thinking about, you know, either adding or changing  
14      this operation to expand.

15          COMMISSIONER HOGAN: Well, that's one of  
16      the reasons we're doing it, because right now there  
17      are tribes that are saying --

18          MR. ANSLEY GRIFFIN: Business decisions,  
19      what makes --

20          COMMISSIONER HOGAN: Yeah -- should we  
21      invest in these machines? Well, what if we invest

22 in them, and they're wrong, and the court, or NIGC,  
23 says, you can't use those machines. Better to have  
24 a clear set of the rules, say, when we are buying a  
25 million dollars worth of machines we know we can

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1 use them. We know that we won't have to shut them  
2 down.

3 MS. CRYSTAL APPLETON: We currently don't  
4 have pull-tabs machines, but going back to -- you  
5 were talking about having pull-tab machines, one of  
6 us were, but did you actually say you had to have  
7 the pull-tab had to come out, so it couldn't be an  
8 electronic pull-tab on the monitor?

9 MS. COLEMAN: No. You can have electronic  
10 pull-tab on the machine, too, but you have to have  
11 an actual pull-tab, too.

12 MS. CRYSTAL APPLETON: And that is not  
13 what they currently have, right? Years ago we had  
14 pull-tab machines in a bingo hall, I think. Do you  
15 remember that?

16 MS. ELEANOR BAXTER: Uh-huh.

17 MS. CRYSTAL APPLETON: And we didn't have  
18 the actual pull-tab that came out. They just  
19 opened like they were opening up.

20 MS. COLEMAN: Right. And a couple of  
21 courts have determined that those are electronic

22       facsimiles when they're a Class III, if the  
23       pull-tab is only on the machine itself. And so  
24       there was a case, though, the Lucky Diamond case --  
25       or Lucky Tab II case, excuse me, where the -- there

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1       was an actual pull-tab that came out, and the court  
2       found it very important that, although you put the  
3       money in, you got the fun of the electronics, and  
4       you got to see the pull-tab opened. And, you know,  
5       it looked very much like a slot machine, but the  
6       fact that you got a pull-tab out of the machine,  
7       and that's what you took to give to the cashier,  
8       that that's what was important. And as long as it  
9       was done like that, then, that was a pull-tab game  
10      and not the Class III game.

11           MR. ANSLEY GRIFFIN: So the Class II  
12      machines are not gonna go away. They're just gonna  
13      be modified or changed to what the court's  
14      interpretation is?

15           COMMISSIONER HOGAN: Well, to what the  
16      regulations say based upon the court  
17      interpretation.

18           MR. ANSLEY GRIFFIN: Okay.

19           MS. ELEANOR BAXTER: So then, these two  
20      gentlemen, the legal counsel, your job is going to  
21      be what aside from looking over whatever's being

22 commented by --

23 MR. HAY: I guess, our job is two things.

24 First of all, we assisted in putting these together

25 or reading through the cases, reading through

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1 previous opinions, and formulating this, so that  
2 the Chairman, when deciding how these regs should  
3 look, we could tell what was out there and what the  
4 law said. So that's kind of the early stages.  
5 We'll be answering a lot of the comments that come  
6 in from tribes hoping to clarify the issues and to  
7 demonstrate, you know, we are taking your comments  
8 seriously, and these are the changes that we made  
9 in response to your comments.

10 We anticipate that at some point, when we do  
11 publish these, there is a good chance that some  
12 tribes, some states, may not be happy, and so we  
13 could get sued on these regulations, so then we  
14 would assist in the defense of those regulations.

15 MS. ELEANOR BAXTER: I see. Thank you.

16 COMMISSIONER HOGAN: We expect we will get  
17 sued, and that's a good thing, not a bad thing.  
18 That is, we want the court to tell us either we got  
19 it right, or we got it wrong. Then, it'll be  
20 settled, and we can go forward, and so,  
21 undoubtedly, there will be some litigation. That's

22 usually the way it works with these regulations.  
23 We're gonna try to write them perfect, so there  
24 wouldn't be any problem, but that seldom gets done  
25 the first time around.

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1 MS. ELEANOR BAXTER: So my next question,  
2 because this is my first ever consultation meeting  
3 with gaming, then -- then what -- after you take  
4 this all back to Washington and to your offices and  
5 you have your legal look at it, then, what  
6 department does it have to go through, what  
7 departments?

8 COMMISSIONER HOGAN: We are the National  
9 Indian Gaming Commission. One of these days, the  
10 Secretary of the Interior will appoint a third  
11 member, and then, we'll have a full team, but until  
12 he or she gets here, it'll be Chuck and I. We are  
13 the ones that get paid the big bucks and make the  
14 final decision. We don't have to present it to  
15 anybody else. We decide.

16 MS. ELEANOR BAXTER: I see. I forgot to  
17 bring blankets for both of you, then (laughter).

18 MR. ORVILLE CAYOU: I got some in the car.

19 MS. ELEANOR BAXTER: But that's really  
20 interesting, because you really give us a mind  
21 opener, and it's good to discuss what's on the

22 table here, because I don't think any one of us has

23 ever been a part of this.

24 And I have sat in on work groups on

25 different -- on the regulations on sitting on the

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1 work groups and adding comments or changing the  
2 name, so it's kind of exciting to sit here to know  
3 that all of these comments are gonna be taken into  
4 perspective and be looked at and channeled into  
5 good words and helping the tribes.

6 COMMISSIONER HOGAN: When Chuck and I  
7 started, we had no idea that bingo could get this  
8 complicated. That's why we've got this help to try  
9 and do it right.

10 MS. ELEANOR BAXTER: But, you know, I  
11 always wondered when I lived in the city that they  
12 had pickle parlors, pull-tab parlors. I really  
13 never thought about gaming, because a lot of people  
14 spent their checks in those pull-tab parlors. And  
15 I never thought about it as gaming until the  
16 actually gaming did come along. And like you say,  
17 the big bingo dollars, and that's what drew the  
18 crowd. So I don't know if you could look at it  
19 back then as entertainment or just losing your  
20 money (laughter).

21 But I'm excited to be here today with the rest

22 of the staff that are here to be a part of this  
23 working group, and we'll take your advice home.  
24 And you'll make us think about it among ourselves,  
25 and when we look at the comments on our computers,

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1 and we can look at it and talk among ourselves to  
2 see what fits our tribe best. And do you need a  
3 resolution, or do you just need comments?

4 COMMISSIONER HOGAN: Whatever form you  
5 choose to put them in, we will read them, and we  
6 will put them in part of the process, but,  
7 hopefully, you can get that done within the time  
8 frame, and then, we won't overlook them as we  
9 complete the process.

10 MS. ELEANOR BAXTER: It's like you said,  
11 another tribe brought their letter, but then, I  
12 don't know if that will help you, or do you just  
13 want public comments from -- appreciate public  
14 comments from each of us?

15 COMMISSIONER HOGAN: However you choose to  
16 do it, we would like it to be your original  
17 thought.

18 MS. ELEANOR BAXTER: Right. And with that  
19 thought, this is my original thought: That gaming  
20 has, indeed, changed our lives. And we're not a  
21 rich gaming tribe. I wish we were, but then, we're

22 just lucky enough to have it retain employment.

23 Good evening (sic).

24 That helps, because when you live in a remote

25 area where your nearest city is 80 miles, which is

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1 Omaha, and then, you have Sioux City, with the low  
2 unemployment rate, there are no jobs in the little  
3 towns that we come from, so we have to rely -- we  
4 have the lowest poverty rate, probably at  
5 65 percent, so that tells you a little something  
6 there.

7 And so we, like I say, we have gaming, and I  
8 appreciate what it has done for our tribe. And I  
9 repeated that twice now, because that's how  
10 passionate I feel in providing that opportunity to  
11 employ our tribe into those jobs. And I thank you  
12 very much for having us here today

13 COMMISSIONER HOGAN: Thank you very much  
14 for coming up here today.

15 MS. ELEANOR BAXTER: Especially, looking  
16 at all of you and your very important jobs. You do  
17 a lot for all the tribes in America, and not  
18 Alaska, though, but --

19 COMMISSIONER HOGAN: Not many people put  
20 quarters in those machines up in Alaska.

21 MS. ELEANOR BAXTER: But we really

22 appreciate you having us here, and do you have any  
23 other comments?

24 MS. ALICIA PARKER: No.

25 MS. CRYSTAL APPLETON: Not at this time,

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1 no. So we need to go off the record?

2 COMMISSIONER HOGAN: Yeah. That will  
3 conclude the session. Thank you very much.

4 (Whereupon, the proceedings concluded at  
5 approximately 3:37 p.m.)

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1 STATE OF MINNESOTA )  
 ) SS  
2 COUNTY OF WASHINGTON)

3 Be it known that I took the verbatim record of  
the National Indian Gaming Commission's  
4 Consultation Meetings regarding Classification  
Standards Regulations on July 17, 2006, at The  
5 Sheraton Hotel, 7800 Normandale Boulevard,  
Bloomington, Minnesota 55439;

6 That I was then and there a notary public in  
and for the County of Washington, State of  
7 Minnesota, and that by virtue thereof I was duly  
authorized to administer an oath but did not;

8 That the conversations of said participants was  
recorded in stenotype by myself and transcribed  
9 into typewriting, and that the Consultation  
Meetings is a true record of conversations given by  
10 the participants to the best of my ability;

That I am not related to any of the parties  
11 hereto nor interested in the outcome of the action;

That I am not financially interested in the  
12 action and have no contract with the parties,  
attorneys, or persons with an interest in the  
13 action that affects or has a substantial tendency  
to affect my impartiality;

14 That all parties who ordered copies have been  
charged at the same rate for such copies;

15

16 WITNESS MY HAND AND SEAL THIS 24th day of July,  
2006.

17

18

19

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Sherry G. Auge  
Court Reporter

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